

INITIAL STATEMENT OF REASONS

CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY

Sections 9050 through 9070
Title 4 Division 12, Chapter 2
California Code of Regulations

INTRODUCTION

The California Educational Facilities Authority (the “Authority”) administers the California Educational Authority Act (Chapter 2 [commencing with Section 94100] of Part 59 of Division 10 of the Education Code [the “Act”]), which authorizes the Authority to make loans to private colleges for the construction or acquisition of educational facilities, as specified in the Act. In 2002, the Legislature enacted Senate Bill 1624, which added Article 9 (commencing with Section 94215) to the Act. Pursuant to this article, the Authority will implement a \$2 million grant program for private institutions of higher education to assist students attending a qualified school in preparing for higher education and college entrance. The Authority seeks to adopt regulations in order to implement, interpret, and make specific this article. This article will be repealed on January 1, 2009.

The Authority has consulted with representatives of private colleges and qualified schools in the development of selection criteria and a process for awarding grants under these regulations, as required in Section 94215.7 of the Act.

SECTION-BY-SECTION ANALYSIS

Section 9050. CEFA Academic Assistance Grant Program Definitions.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215 permits the Authority to make grants in aid but does not define certain terms (such as low-income student, academic assistance, etc.) that are necessary to understand the selection criteria and administrative requirements imposed by the Code.

2. Specific Purpose of the Regulation.

The purpose of this regulation is to define terms in order to administer the program and to provide clarity and consistency in the use of these terms in the administration of the program.

3. Necessity.

These definitions will enable grant applicants to effectively and efficiently complete applications for funding by clarifying the selection criteria and the program's requirements. These definitions will also allow the Authority to score these applications and administer the program in a consistent manner.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation. The Authority did, however, research state and federal statutes in its determination of the definitions of low income student, very low income student, low income area, and very low income area.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

The Authority considered existing academic assistance grant programs in the development of this program and this regulation. In its consultation with representatives of private colleges and qualified schools, the Authority was not presented with any suggested alternatives to this regulation.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. Neither small nor large colleges are required to apply for or accept this grant funding and there is no identifiable adverse impact in the acceptance of this grant funding.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9051. Eligible Private College.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.3 authorizes the Authority to award grants to any private institution of higher education in preparing pupils for higher education and college entrance, as defined in Section 94215.3 of the California Education Code. However, the statute does not refer to restrictions in state and federal constitutions regarding use of public funds for sectarian purposes. The statute doesn't identify any accrediting organization that would meet the statutory requirement. Also, California Education Code Section 94215.3 states that these grants are designed to enable a private college to provide a program of academic assistance and services but does not clarify that a college with a going concern qualification will be unable to provide these services.

2. Specific Purpose of the Regulation.

Section 9051 provides clarification of eligibility under this statute by detailing what constitutes a non-sectarian college, proper accreditation, and a going concern qualification.

3. Necessity.

This section will enable private colleges to know whether they are eligible for grant funding, will allow the Authority to administer the program in a consistent manner, and will prevent the use of public funds for sectarian purposes.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of their eligibility. Neither small nor large colleges are required to apply for or accept this grant funding and there is no identifiable adverse impact in the acceptance of this grant funding.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9052. Eligible Program.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.3 provides that grants may be made to enable a private college to provide a program of academic assistance and services to pupils attending a qualified school. However, the statute does not define the parameters of the eligible programs.

2. Specific Purpose of the Regulation.

The purpose of Section 9052 is to more specifically define the programs that may be considered for grant funding.

3. Necessity.

This section will enable private colleges to know whether their existing or proposed program is eligible for grant funding and will allow the Authority to administer the program in a consistent manner.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of their program's eligibility. Neither small nor large colleges are required to apply for or accept this grant funding and there is no identifiable adverse impact in the acceptance of this grant funding.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9053. Maximum Amount.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.5 provides that funds provided by a private college may be fully or partly matched by grant funds.

2. Specific Purpose of the Regulation.

Section 9053 construes California Education Code Section 94215.5 as a limit on the amount of grant funds that an applicant may receive based upon a match provided by the private college. Section 9053 describes how to determine the amount of this limit.

3. Necessity.

This section will enable private colleges to know the maximum grant fund they are eligible to receive. This section also clarifies to grant recipients the extent to which they may be required to return grant funds.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of the maximum amount they are eligible to receive. Neither small nor large colleges are required to apply for or accept this grant funding and there is no identifiable adverse impact in the acceptance of this grant funding.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9054. Application Form.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215 authorizes the authority to make grants, but does not reference the manner in which a private college would request these funds or the manner in which the authority would gather the information needed to make its funding allocations. California Education Code Section 94215.7 requires the authority to develop a process for awarding grants.

2. Specific Purpose of the Regulation.

The addition of this regulation establishes the need for an applicant to submit an application to be considered for a grant award.

3. Necessity.

This section will enable private colleges to know the documentation requirements they will need to meet to be considered for grant funding.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of how to apply for grant funding. Neither small nor large colleges are required to apply for or accept this grant funding and there is no identifiable adverse impact in the acceptance of this grant funding.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9055. Application Submission.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215 authorizes the authority to make grants but does not specific the manner or timeframe of submitting an application. California Education Code Section 94215.7 requires the authority to develop a process for awarding grants.

2. Specific Purpose of the Regulation.

The addition of this section establishes the process for the time and manner of submitting an application to the Authority.

3. Necessity.

This section will enable private colleges to know the documentation requirements they will need to meet to be considered for grant funding.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of the time and manner of applying for grant funding. Neither small nor large colleges are required to apply for or accept this grant funding and there is no identifiable adverse impact in the acceptance of this grant funding.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9056. Content of Application.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215 authorizes the authority to make grants but does not specify the type or format of information the authority needs from an applicant as the basis of its grant funding decision nor does it specify the terms of the agreement. California Education Code Section 94215.7 requires the authority to develop a process for awarding grants.

2. Specific Purpose of the Regulation.

The purpose for Section 9056 is to specify the information that must accompany an application including program description, financial statements, tax-exemption letters, corporate status certification, accreditation notifications, factual showing and certification regarding religion, legal information and an application agreement and certification.

3. Necessity.

This section will enable the authority to obtain an application containing all the information needed to determine eligibility and to score and rank applications and will enable private colleges to know what information to provide in a grant application.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of the type information needed to apply for grant funding. Neither small nor large colleges are required to apply for or accept this grant funding and there is no identifiable adverse impact in the acceptance of this grant funding.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact,

adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9057. Application Evaluation.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(a) specifies that the Authority must develop selection criteria and a process for awarding grants, but did not specify how applications would be scored or ranked.

2. Specific Purpose of the Regulation.

Section 9057 details the process by which applicants will be scored and ranked, using the criteria detailed in Section 9058, the basis for disqualification, and minimum standards. Section 9057 also clarifies that each type program will be of equal value and that programs providing multiple services will be eligible for additional points.

3. Necessity.

This section will enable private colleges to know that consideration for grant funding is a competitive process and that the basis of a possible disqualification or ineligibility resulting from not meeting a minimum standard.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of knowing the basis of disqualification or ineligibility.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9058. Evaluation Criteria.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(a) specifies the criteria that the Authority must include certain factors in its grant selection process, but also authorizes the Authority to develop a scoring system and to develop additional criteria, necessitating the addition of this Section.

2. Specific Purpose of the Regulation.

The purpose for Section 9058 is to make specific the criteria by which an applicant will be evaluated and to allocate a certain number of points for satisfying the various criteria, including program effectiveness and program feasibility.

3. Necessity.

This section will enable private colleges to know the factors that scoring of application forms will be based on. These definitions will also enable the Authority to score grant applications in a consistent manner.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of knowing the basis of application scoring.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9059. Notification and Proposed Allocation.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(a) specifies that the Authority shall develop a process for awarding grants, but did not specify the manner of this process. Also, although Section 94215.5 allows the authority to provide a matching amount to the funds provided by the applicant and Section 94215.7(b) allows awards up to \$250,000 per applicant, the Code did not clarify a process under which an applicant annually expending less than the Maximum Amount could receive this maximum amount over the course of the CEFA Academic Assistance Grant Program.

2. Specific Purpose of the Regulation.

Section 9059 specifies the process for ranking applications and notifying applicants of their score and the proposed amount of initial allocation. Section 9059 also establishes a minimum score required for funding and permits for incremental grant disbursements.

3. Necessity.

This section will enable the Authority to fund only applicants that demonstrate a satisfactory level of program effectiveness or feasibility, and clarifies to applicants that their program must demonstrate this. The section also allows the authority to make incremental disbursements of grant funds for programs that annually expend less than the Maximum Grant of \$250,000. This section also clarifies to applicants that they will be notified in writing after the proposed allocation and the final allocation. Applicants will need notification of proposed allocations in order to know if they need to file an appeal of a negative proposed allocation.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of knowing the basis of application ranking, the allocation process, and the manner of notification of proposed and final allocations.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9060. Appeals.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.3 specifies grant funding eligibility standards for applicants and for programs but does not specify that an applicant may appeal authority staff's determination that a particular applicant or program is ineligible, other than at the time of the Authority meeting at which final allocations are to be determined. California Education Code Section 94215.7 requires the authority to develop a process for awarding grants.

2. Specific Purpose of the Regulation.

Section 9060 establishes an appeals process as a reasonable means of enabling applicants to request reconsideration of certain determinations regarding applications. The provision describes the circumstances under which an appeal may be filed, the timing of the appeal, the review of the appeal by the staff and Authority.

3. Necessity.

The Authority needs to ensure that authority staff has carefully considered whether applicants have met basic eligibility requirements so that they may make a final allocation decision at one designated authority meeting, thereby expediting the grant approval process.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit by having a defined process to reasonably appeal staff determinations of eligibility.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools

providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9061. Approval of Grant and Notification of Recipient.

When Proposed Allocations for funding have been determined, Authority staff shall recommend to the Authority at a Board Meeting the Proposed Allocations for consideration and approval as Allocations. Allocations approved by the Authority at the same meeting shall be awarded as Grants to recipients. Recipients shall be notified within five (5) business days of the Board Meeting in writing of the Grants approved.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(a) specifies that the Authority shall develop a process for awarding grants, but did not specify the manner of this process.

2. Specific Purpose of the Regulation.

The purpose of Section 9061 is to provide a process by which final allocations are approved by the Authority and recipients are notified of the amount approved.

3. Necessity.

Section 9061 clarifies the grant approval process to applicants and notifies applicants that there is an Authority meeting at which they can appeal, directly to the board, a negative staff recommendation for grant funding. Section 9061 also provides grant awardees with evidence of a commitment for grant funding under certain circumstances.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of the allocation process and the manner of notification.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9062. Any Remaining Funds.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(b) specifies \$2 million will be available to the Authority for the purpose of issuing grants but does not establish a procedure for the Authority to distribute any unused funds in the event total funds requested are less than total funds available or if grant funds are returned to the Authority.

2. Specific Purpose of the Regulation.

Section 9062 has been added to establish a procedure for the Authority to distribute any unused funds in the event there are funds remaining following the Authority's allocation process as described in Section 9061.

3. Necessity.

Section 9062 provides direction to Authority staff regarding disbursement of unused funds.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with the establishment of a process of disbursing remaining grant funds.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9063. Approval of Grant Use Change.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7 requires the authority to develop a process for awarding grants, but does not specify a procedure for the Authority to consider approval of change in a program between the date the applicant was approved for an award and the date the grant funding is to be disbursed.

2. Specific Purpose of the Regulation.

Section 9063 has been added to create a procedure for disbursing grant funds for a program that has changed but is consistent with the approved grant application.

3. Necessity.

As part of the application process for a grant award, an applicant must describe for what program the grant funds will be used. Since there is a time delay between the application submission and the final allocation approval by the Board, potentially, a grant recipient may have discovered that the original intent for grant proceeds may no longer be financially or operationally sound. Without

this Section, an applicant might lose grant funding for circumstances beyond their control.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with the establishment of a process of disbursing grant funds when an approved program has changed.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9064. Grant Agreements.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215 states that the Authority shall make grants in accordance with an agreement with the private college but does not specify what is necessary to be included in the agreement. California Education Code Section 94215.7(d) requires the applicants commit to using grant funds for the purposes for which the grant was awarded but doesn't indicate the procedure for this.

2. Specific Purpose of the Regulation.

Section 9064 specifies the terms and conditions of the grant to be included in an agreement to be executed by the grantee.

3. Necessity.

Without Section 9064 there would not be a legally binding agreement recognizing the awardee's responsibility to comply with the terms and conditions of the program and of the grant award, agreeing to comply with anti-discrimination laws, providing indemnifications to the authority, agreeing to audits, agreeing to not use grant funds for enrolling students in a particular college, and any other mutually agreed provisions. Section 9064 also clarifies to applicants what will be required of them if they are awarded grant funding.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with the establishment of a process of disbursing grant funds when an approved program has changed.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9065. Release of Funds.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(c) specifies that the Authority shall release no funds until an applicant demonstrates program readiness to the Authority's satisfaction, but does not specify how this will be demonstrated.

2. Specific Purpose of the Regulation.

Section 9065 specifies the information grantees are required to provide prior to release of funds by the Authority.

3. Necessity.

Section 9065 clarifies to Authority staff and to awardees the requirements for disbursement of grant awards.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with the establishment of a process of disbursing grant funds.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9066. Depletion of Grant Proceeds.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

The California Education Code Section 94215.7(c) states that all programs that are awarded grants shall be implemented within a reasonable period of time, but does not define this period of time and does not specify how this will be monitored. California Education Code Section 94215.5 specifies that no grant to any applicant shall exceed the funds provided by the private college, but does not specify how this requirement will be enforced.

2. Specific Purpose of the Regulation.

Section 9066 specifies the documentation and timeframe for the expenditure of grant funds and requires return of funds to the extent that matching funds were not received.

3. Necessity.

Without Section 9066, awardees would not know the timeframe in which they must expend proceeds, how expenditures must be reported, or that funds without matching funds must be returned to the authority.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of the expenditure process and the reporting requirements.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9067. Unused Funds.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(b) specifies \$2 million will be available to the Authority for the purpose of issuing grants and California Education Code Section 94215.7(c) specifies that the Authority may require remedies for failure to implement a program under the specified award terms, but does not establish a procedure for the Authority to distribute any funds that are returned to the Authority as a result of the failure of an awardee to expend grant funds according to the specified award terms.

2. Specific Purpose of the Regulation.

This Section establishes the process for the distribution of funds that have been forfeited.

3. Necessity.

Section 9067 provides direction to Authority staff regarding disbursement of forfeited funds.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of the process by which forfeited funds may be disbursed.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

Section 9068. Audits.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(c) authorizes remedies if the Authority determines that the program was not implemented under the terms of the award, but does not specify how the Authority will monitor whether funds were expended for approved purposes, whether matching funds were expended, and if other specified terms of the grant were satisfied.

2. Specific Purpose of the Regulation.

Section 9068 enables the Authority to verify that a grant recipient has met the conditions of funding by requiring recipients to retain all necessary program and financial data and to provide this information to the Authority upon request.

3. Necessity.

Section 9068 is needed to provide the Authority a procedure to verify that a grant recipient has met these conditions of funding. Section 9068 also clarifies to grant recipients the audit and recordkeeping requirements they must comply with.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit with clarification of the compliance and recordkeeping process.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

NOTE: Authority Cited: Section 94216.9 of the Education Code. Reference: Section 94215.3 of the Education Code

Section 9069. Recovery of Funds for Non-Performance.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94215.7(c) requires remedies including the return of grant funds for the grantee's failure to implement the program according to specified award terms, but does not clarify that compliance with general program requirements and with the conditions of the Grant Agreement are required terms of each grant.

2. Specific Purpose of the Regulation.

Section 9069 clarifies the basis of a determination to require a recovery of grant funds.

3. Necessity.

Section 9069 clarifies to grant applicants that they will be required to comply with all grant program and grant agreement requirements or be required to return grant funds as a remedy.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit from clarification of compliance requirements.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.

NOTE: Authority Cited: Section 94216.9 of the Education Code. Reference: Section 94215.3 of the Education Code

Section 9070. Reporting.

1. Public Problem, Administrative Requirement or Other Condition or Circumstance that the Regulation is Intended to Address.

California Education Code Section 94216 requires the Authority to submit an annual report to the Legislature describing each of the programs to which funding

has been awarded, but does not provide for a method of knowing whether a program continued to exist without Authority grant funding.

2. Specific Purpose of the Regulation.

Section 9070 requires each awardee to submit annual reports of expenditures plus a final report on the program's status and requires retention of data for three years after the final report.

3. Necessity.

Section 9070 clarifies reporting and recordkeeping requirements to grant applicants and awardees.

4. Technical, Theoretical and/or Empirical Studies, Reports or Documents.

The Authority did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

5. Alternatives to the Regulation Considered by the Authority and the Authority's Reasons for Rejecting Those Alternatives.

No other alternatives were presented to or considered by the Authority.

6. Alternatives to the Proposed Regulatory Action that Would Lessen any Adverse Impact on Small Business.

There will not be any adverse impact on small business. All colleges, regardless of size, will benefit from clarification of reporting and recordkeeping requirements.

7. Evidence Supporting Finding of No Significant Adverse Economic Impact on any Business.

As this program provides a direct monetary benefit to California businesses, there will be no adverse economic impact on any California businesses. In fact, adoption of the regulations may have a positive effect on businesses by expanding the Authority's ability under the Act to award grant funding to qualified schools providing outreach to low- and very low-income students and creating a more educated workforce. There is no identifiable economic impact to the private colleges that will receive grant funding.